

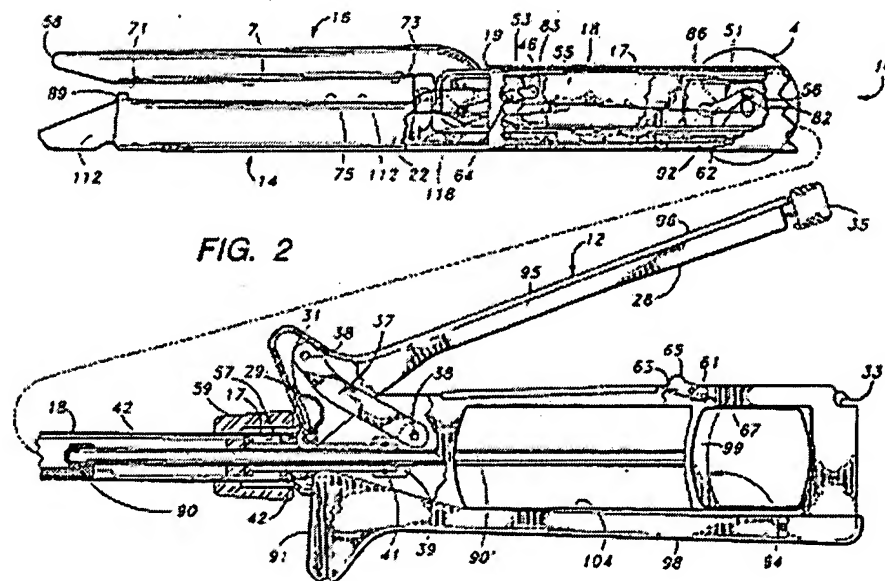
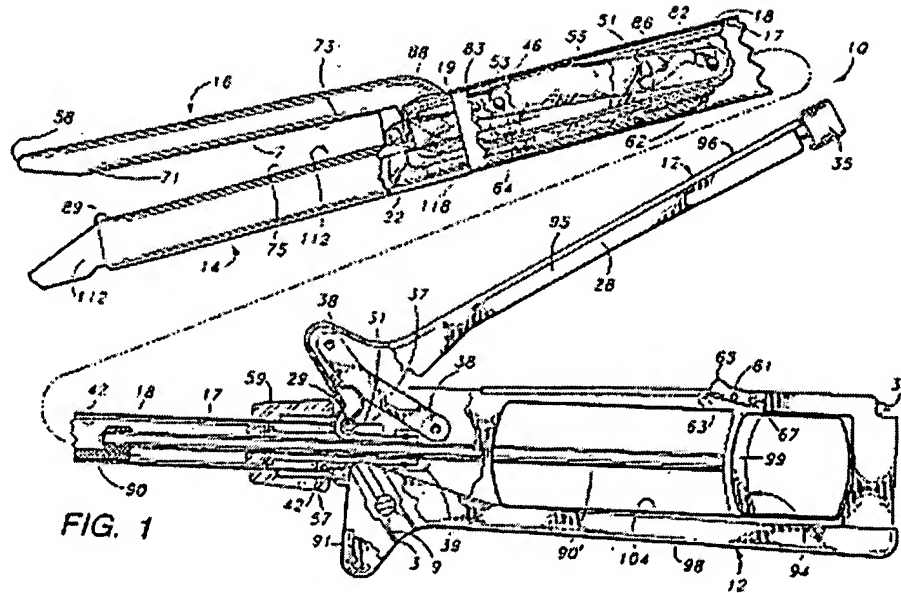
REMARKS

Claims 17-27 and 37-40 are currently pending in this application. Of these claims, Claims 38-40 were withdrawn from consideration by the Examiner as being directed to a non-elected invention. By this amendment, Claim 17 has been amended to specify that the second portion of the actuating stroke is subsequent to the first portion of the actuating stroke and that the third portion of the actuating stroke is subsequent to the second portion of the actuating stroke. This amendment was discussed with Examiner Rada during a telephone interview on May 30, 2007. Examiner Rada agreed during the telephone interview that the amendment would be entered. In view of the amendments above and the remarks to follow, reconsideration and allowance of this application are respectfully requested.

In the Office Action, Claims 17-27 and 37 were rejected under 35 U.S.C. § 102(b) over U.S. Patent 5,816,471 to Plyley et al. ("Plyley"). Plyley discloses surgical stapler 10 shown in FIGS. 1-3 below which includes a handle portion 12, a cartridge retention portion 14 which supports a cartridge and an anvil retention portion 16 which supports an anvil. Column 13, lines 53-64 of the specification of Plyley describes the movement of the anvil from the open position to the closed position as follows:

"The movement of anvil from the open position (FIG. 1) toward the closed position (FIG. 3) is referred to as "tip to tail" closure as initially the leading portion 71 of the anvil moves toward the closed position more rapidly than the trailing portion 73, and then the relative speeds of closure of the leading and trailing portions 71 and 73 are reversed. Preferably, the leading portion 71 reaches a fully closed position prior to the trailing portion 73. This motion is believed to provide desirable clinical results as the initial closure of the distal portion resists extrusion of tissue from between the cartridge retention

and anvil portions of the stapler.”



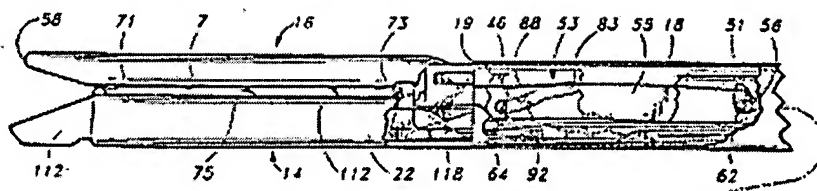


FIG. 3

Claim 17 recites a tool assembly including, inter alia, a pair of jaws, at least one cam surface, first and second cam followers and an approximation member. Claim 17 also recites that the “approximation member is movable to move the at least one cam surface in relation to the first and second cam followers to effect movement of the first jaw to approximate a distal end of the first jaw with the second jaw in a first portion of the actuating stroke, to subsequently move the distal end of the first jaw away from the second jaw in a second portion of the actuating stroke, and to subsequently bring together the first jaw and the second jaw in substantially parallel closure in the third portion of the actuating stroke.” As described above, Plyley fails to disclose a tool assembly which effects movement of a pair of jaws as recited in Claim 17. More specifically, Plyley does not, in a second portion of the actuating stroke, “move the distal end of the first jaw away from the second jaw” as recited in Claim 17. As clearly described in the paragraph reproduced above from the Plyley specification, movement of the leading portion of Plyley’s anvil toward the closed position is initially more rapid than the trailing portion, than the

relative speeds of closure are reversed. The leading portion reaches the closed position first. In no portion of the movement of Plyley's anvil to the closed position does the leading portion of Plyley's anvil move away from Plyley's cartridge. As discussed in the specification (See page 8, lines 9-23 and page 9, lines 1-4), the specific sequence of movement of the first jaw in relation to the second jaw recited in Claim 1, facilitates use of the tool assembly for grasping of tissue even very thin tissue. Thus, Plyley does not anticipate Claim 17.

Each of Claims 18-27 and 37 depend either directly or indirectly from Claim 17. For at the reason discussed above with respect to Claim 17, inter alia, Claims 18-27 and 37 are also in condition for allowance.

In view of the foregoing remarks, it is respectfully submitted that all claims pending in the application, namely claims 17-27 and 37-40, are in condition for allowance. Accordingly, early and favorable reconsideration of this application is respectfully requested. Should the Examiner feel that a telephone or personal interview may facilitate resolution of any remaining matters, he is respectfully requested to contact Applicant's attorney at the number indicated below.

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Respectfully submitted,



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